

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 26, 1999

DIVISION ONE

B118828 People
v.
Deptowicz

Filed order modifying opinion. (No change in the judgment)

B102747 Hill (Not for Publication)
v.
St. Andrew's Abby

We reverse the judgment (order of dismissal). We affirm the order sustaining the demurrer without leave to amend as to the causes of action for breach of fiduciary duty (1st), negligent misrepresentation (5th), intentional infliction of emotional distress (6th), negligent infliction of emotional distress (7th), civil rights violations (8th), civil conspiracy (9th), and invasion of privacy (10th). We reverse the order sustaining the demurrer without leave to amend as to the causes of action for breach of contract (2nd), breach of the implied covenant (3rd), and fraudulent inducement (4th). We reverse the order awarding sanctions. The parties are to bear their own costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

February 26, 1999-Continued

DIVISION ONE (Continued)

B121216 Sachs (Not for Publication)
v.
Columbia HCA Health Care Corp. etc., et al.

The judgment is affirmed. Columbia is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

B114534 Gray (Not for Publication)
v.
Huang et al.

The judgment is affirmed. Sheraton is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

B116266 People (Not for Publication)
v.
Jelks
In re Jelks on H.C.

The judgment is affirmed; the petition for a writ of habeas corpus is denied.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

February 26, 1999-Continued

DIVISION ONE (Continued)

[illegible]

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B127274 Felipe O. et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B121444 People (Not for Publication)
v.
Gipson

We remand for the trial court to prepare an amended abstract of judgment reflecting the stayed sentence on count 2 and forward it to the Department of Corrections. In all other respects we affirm the judgment.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

February 26, 1999-Continued

DIVISION ONE (Continued)

B121337 People (Not for Publication)
v.
Thompson

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B114449 Herincx et al. (Not for Publication)
v.
Johnson Controls, Inc., et al.

The summary judgments for defendant Gas Company and defendant Johnson are affirmed. Defendants are awarded their costs.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B122299 Transportation Insurance Limited (Not for Publication)
v.
ShinMaywa Industries, Ltd.

The judgment is affirmed. The orders regarding the privileged documents are reversed, and the cause is remanded to the trial court with directions to issue an order directing TIL to return the inadvertently-produced Morgan Lewis documents to ShinMaywa. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

February 26, 1999-Continued

DIVISION ONE (Continued)

B126002 Century-National Insurance
Company et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Garlejo, r.p.i.)

Let a peremptory writ of mandate issue commanding the superior court to (1) vacate its order of September 9, 1998, in which it granted Garlejo's motion for summary adjudication and denied Century-National's motion for summary adjudication, and (2) enter a new order denying Garlejo's motion and granting Century-National's motion. Century-National is awarded its costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

DIVISION TWO

2-26-99

103961-99 THE HONORABLE MORIO L. FUKUTO, Retired Associate Justice of the Court of Appeal, Second Appellate District, Division Two, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a Justice thereof, on the following dates:

February 17, 1999 to May 17, 1999

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

Dated: February 16, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

DIVISION TWO (Continued)

B125217 Agricultural Insurance Company (Certified for Publication)

v.

Superior Court, Los Angeles County
(MKDG/Rhodes SC Partnership, r.p.i.)

Let a writ of mandate issue directing the superior court to set aside its order sustaining, without leave to amend, the demurrer to petitioner Agricultural Insurance Company's cause of action for fraud, and directing the superior court instead either to overrule that demurrer or to sustain it with leave to amend to plead with greater specificity, and also directing the superior court to set aside its order striking petitioner Agricultural Insurance Company's prayer for punitive damages, and to reconsider that ruling in light of the superior court's final disposition of petitioner's fraud pleading. The petition is otherwise denied. Each side to bear its own costs.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

B113301 People (Not for Publication)

v.

Frazier

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

DIVISION TWO (Continued)

B125577 Garcetti (Not for Publication)

v.
Superior Court, Los Angeles County
(Kise, r.p.i.)

Let a writ of mandate issue directing the superior court to set aside its order granting real party Kise's motion to dismiss the SVP Act petition filed against him, and to issue a new and different order denying Kise's motion.

Boren, P.J.

We concur: Nott, J.
Zebrowski, J.

B114928 People
v.
Pimentel

Filed order vacating submission of November 20, 1998 and resubmitting the matter this date.

Court convened at 9:15 A.M.

Present: Boren, P.J., Nott, J., Zebrowski, J., Mallano, J. (Assigned), and G. Villanueva, Deputy Clerk.

Each of the following:

B115190 People v. Collins
B122309 People v. Garza
B123548 People v. Perry
B120625 People v. Young
B116265 People v. Ruiz
B113486 People v. Diaz
B121759 Washington v. Regents University of Calif.
B116583 Martinez v. Edison
B119256 Jones v. State of California
B118751 People v. Sorrentino
B113114 People v. Catrieer
B127725 Andrea H. v. Sup. Ct.
B120511 People v. Darnell J.

DIVISION TWO (Continued)

Each of the following (continued):

B125168 Matter of Angel M.
B123606 Matter of Ashley L.
B122976 Matter of Brandon P.
B124765 Matter of Kitty S.
B119703 People v. Williams
B122013 People v. Evans
B121553 People v. Fryer
B120587 People v. Moore
B117032 People v. Trans & Nguyen
B125192 People v. Williams
B121702 People v. Mobley
B122788 People v. Frattarole
B123196 Doewning v. Orbach
B119235 Vasquez v. City of Bell Gardens

Argument waived, cause submitted.

B123152 People
 v.
 Gil

Merits:
Argued by Gerald Serlin for appellant and by Thomas Hsiog, Deputy
Attorney General, for respondent. Cause submitted.

B115885 O'Brien-Plunkett
 v.
 Glendale Adventist Medical Center

Merits:
Argued by Richard Guilford for appellant and by James Harris for
respondent. Cause submitted.

B121040 Schwartz
 v.
 Glaspy

Merits:
Argued by John Reiner for appellant and by Mark Connely for respondent.
Cause submitted.

DIVISION TWO (Continued)

B114879 Diaz
 v.
 Serra Medical Center

Merits:
Argued by Andrew Chang for appellant and by Brian Barrow for
respondent. Cause submitted.

B122175 Gormley
 v.
 Williams

Matter ordered off calendar.

B118779 Sedaghat
 v.
 Malek

Merits:
Argued by Soheil Sedaghat, in propria persona and by Jimmie Williams for
respondent. Cause submitted.

B095016 Hebert
 v.
 City of Santa Monica

Merits:
Argued by Robert Shtofman for appellant and by Norman Hirata, Deputy
City Attorney, for respondent. Cause submitted.

Justice Zebrowski leaves the bench.

DIVISION TWO (Continued)

B117710 McAfee
 v.
 Schloss

Merits:

Argued by Lucky Kellener for appellant and by Roy Weatherup for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B112003 Johnson (Not for Publication)
 v.
 Robinson

The order of dismissal is reversed. Johnson to recover costs on appeal.

Klein, P.J.

We concur: Aldrich, J.
 Goodman, J. (Assigned)

B112916 Sierra Pacific Insurance Co., et al. (Not for Publication)
B115376 v.
 American Sentinel Insurance Co., et al.

The orders of nonsuit are affirmed. The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with the views expressed herein. Each party shall bear its own costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B121824 American International Industries, et al. (Certified for Publication)
v.
Superior Court, Los Angeles County
(Urbach, et al., r.p.i.)

The alternative writ having served its purpose is discharged. Let a writ of mandate issue directing respondent superior court to vacate its order denying the motion for judgment on the pleadings as to the first five causes of action and to grant the motion as to those causes of actions. Each party to bear respective costs in this proceeding.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION FOUR

[illegible]

The Court:

For the foregoing reasons, we strike the one-year enhancement imposed pursuant to Penal Code section 667.5, subdivision (b), and in all other respects affirm the judgment. The trial court is directed to prepare and forward to the Department of Corrections, an amended abstract of judgment reflecting this modification of the judgment.

Vogel (C.S.), P.J., Epstein, J., Hastings, J.

February 26, 1999-Continued

DIVISION FIVE

B123134 People (Not for Publication)
v.
Carlos A. Vilchez

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B120862 Bandar & Saba Holdings, Inc. (Not for Publication)
v.
Muhsin Khazal Al-Hashimi

The summary judgment is affirmed. Respondent Al-Hashimi to recover his costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

B109041 Northrop Corporation (Not for Publication)
v.
Terrence Schielke, et al.

The judgment and the post-trial order imposing sanctions under section 128.5 are affirmed. Respondents to recover their costs on appeal.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

DIVISION FIVE (Continued)

B121061 People
 v.
 Willie Daniels

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)